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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,077	12/22/2000	Patrick E. Perry	BUR919980109	8010
30743	7590	08/04/2004	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			PAN, DANIEL H	
			ART UNIT	PAPER NUMBER
			2183	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/681,077	Applicant(s) PERRY ET AL.	
	Examiner Daniel Pan	Art Unit 2183	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10-15, 17 is/are rejected.
- 7) ☒ Claim(s) 5, 9 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-17 remain for examination.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4,6-8,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhat (6,097,955) in view of Yamada et al. (5,996,070).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-15,17 are rejected under 35 U.S.C. 102(a)(b) as being anticipated by Sone et al. (5,452,469)

4. As to the newly amended claim 11, amended claim 11 does not change the scope of the original claim. Sone disclosed means for processing and storing a sequence of instructions (see the commands) to be available for execution, each instruction including an execution bit (CBK), and means (see decision step in fig.4) for

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by passing processing of an instruction at a given time in the sequence of the instructions based on a particular state of an execution bit [CBK] in a current instruction [given command] (see how the program flow break into the break routine and how the new command suspended following the given command in col.5, lines 44-68, col.6, lines 1-10), col.7, lines 40-52, see also the abstract). Upon, a careful review, Sone did have the "execution bit" [CBK] in each instruction [command] (see col.8, lines 42-48), and a next command was skipped at a given time during which a break routine was processed, instead, based on the state of execution bit [CBK 1]. The next command was being fetched at a next cycle after the processing cycle of break routine (see fig.4, D1-D2). Neither applicant's specification nor the claim recites whether the "bypass" was all the times, or for a given time, therefore, claim is given a broadest interpretation that the bypass was at any single time. And, therefore, the claim has been found anticipated by Sone.

5. The rejections are maintained and incorporated by reference the last Office Action on 01/21/04.

6. The response filed on 04/21/04 has been fully considered, but is not persuasive.

7. In the remarks, applicant argued that :

a) Bhat is directed to the bypass of hardware during normal operation of the communication system and while the radio cluster servers remained in use for voice messages and has nothing to do with bypassing of software application codes during initialization of processor when the operation codes are decoded and stored in order too reduce program storage requirements and save decoding time and power and storage

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space during initialization while improving execution speed when the program is later executed the radio cluster servers;

- b) equating software with operation codes is incorrect;
- c) Yamada has nothing to do with bypassing decoding and/or storage of other operation codes during initialization of the processor;
- d) Bhat and Yamada were not directed to suppression, not bypassing;
- e) Sone was directed to suspension of command, not bypassing of an instruction;
- f) Sone did not teach instruction including an execution bit in combination with means for bypassing an instruction of the sequence based on a particular state of an execution bit in a current instruction;

8. As to a) above, applicant is reminded that unclaimed features cannot be used to overcome the prior art (e.g. see CCPA In re Lundenberg & Zuschlag, 113, USPQ 530, 534 (1957)). For example, nowhere does applicant claim recite the bypassing of software application codes during initialization of processor when the operation codes are decoded and stored in order to reduce program storage requirements and save decoding time and power and storage space during initialization while improving execution speed when the program is later executed by the radio cluster servers. Nevertheless, Bhat is directed to the bypass of radio cluster servers (see col.2, lines 34-39, col.5, lines 54-60). The radio cluster servers in one option were software (col.6, lines 11-14). Therefore, Bhat did have the bypass of software.

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9. As to b) above, if operation codes are not software , what else it could be ?

10. As to c) above, applicant is reminded that unclaimed features cannot be used to overcome the prior art (e.g. see CCPA In re Lundenberg & Zuschlag, 113, USPQ 530, 534 (1957)). For example, nowhere does applicant claim recite bypassing decoding and/or storage of other operation codes during initialization of the processor.

Nevertheless, Yamada was used for supplementing the teaching of the insertion of a bit into operational code (col.7, lines 41-60, already cited in the last Office Action). The reasons why it would have been obvious to use Yamada in Bhat were already given in Paragraph # 4 of the last Office action on 01/21/04, therefore, it will not be repeated herein.

11. As to d) , Bhat did have bypassing (see col.2, lines 34-39, col.5, lines 54-60).

12. As to e), suspending an instruction has the effect of bypassing an instruction at a given time. Applicant has not been able to provide the reasons to distinguish between "suspension" and "bypassing". Applicant has mentioned a suppression of instruction code in a form which can be processed/decoded and/or stored, but nowhere does applicant claim recite suppression of instruction code in a form which can be processed/decoded and/or stored., or the like. Applicant is reminded that unclaimed features cannot be used to overcome the prior art (e.g. see CCPA In re Lundenberg & Zuschlag, 113, USPQ 530, 534 (1957)).

13. As to f), see Paragraph # above.

14. Claims 5,9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art of record teaches the functional relationship of the execution bit and activation bit and the register bit.

15. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art of record teaches the means for toggling the comparison bit based on the execution bit and the comparison of the comparison bit with respective execution bits.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pan whose telephone number is 703 305 9696. The examiner can normally be reached on M-F from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chan, can be reached on 703 305 9712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

21 Century Strategic Plan

DANIEL H. PAN
PRIMARY EXAMINER
GROUP 1

